

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DARIO MARTINEZ-CASTRO,

Petitioner,

v.

JASON BENNETT,

Respondent.

CASE NO. 2:23-cv-256

ORDER

This matter comes before the Court on Petitioner Dario Martinez-Castro's Motion to Extend Time to File Objection. Dkt. No. 27. Martinez-Castro filed his Proposed Petition For Writ of Habeas Corpus on February 24, 2023, and proceeds pro se in forma pauperis. Dkt. Nos. 1, 7. On December 27, 2023, Hon. Michelle L. Peterson entered her Report And Recommendation (R&R) recommending that Martinez-Castro's petition be denied and dismissed with prejudice. Dkt. No. 26. Martinez-Cortez's objection was due 21 days after entry of Judge Peterson's R&R. *See id.*

Martinez-Castro filed his Motion to Extend Time on January 18, 2024, requesting additional time to respond to the R&R because he was being transferred

1 to a different prison facility for safety reasons. *See* Dkt. No. 27. He requested an
2 extension until February 1, 2024, explaining that he was “not currently in
3 possession of the legal materials necessary to prepare His Objection, and has
4 extremely limited access to the facilities law library . . .” *Id.* Respondent did not file
5 a response to Martinez-Castro’s request for extension. *See* Dkt. On January 26,
6 2024, Martinez-Castro filed a second Motion to Extend Time to File Objection,
7 providing the same reasons for an extension in his first motion, but requesting a
8 continuance until February 23, 2024. Dkt. No. 28. This motion is noted for February
9 9, 2024. *See id.*

10 The Court may extend Martinez-Castro’s time to respond for good cause,
11 including “with or without motion or notice if the court acts, or if a request is made,
12 before the original time or its extension expires.” Fed. R. Civ. P. 6(b)(1).
13 Additionally, under LCR 7(g), a party may move for relief from a deadline.

14 Here, Martinez-Castro filed his First Motion to Extend Time one day late on
15 January 18, 2024. *See* Dkt. No. 27; Fed. R. Civ. P. 6. Additionally, the noting date
16 for his second Motion to Extend Time is not until February 9, 2024. But the Court
17 finds good cause to relieve Martinez-Castro from the deadline to file his objection to
18 Judge Peterson’s R&R. Martinez-Castro’s circumstances inhibit his ability to file his
19 objection, and his representations are corroborated by the record. *See* Dkt. No. 29.¹
20 Martinez-Castro’s circumstances merit an extension—with or without his present

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22 ¹ Dkt. No. 29 includes a January 29, 2024 email from “DOC SCCC Inmate Federal
23 E-Filing,” with subject line “FW: Activity in Case 2:23-cv-00256-JNW Martinez-
Castro v. Bennett Motion for Extension of Time,” with the writer stating “this II
was transferred rom [sic] SCCC to WSP we are unable to give them these records.”

1 motion. *See* Fed. R. Civ. P. 6(b)(1). The good cause Martinez-Castro cites—lack of
2 access to legal resources because of his transfer—also show excusable neglect in
3 filing his motion a day late. Finally, the Court does not find an extension will
4 prejudice Respondent.

5 Therefore, Martinez-Castro's Motion to Extend Time, Dkt. No. 27, to Judge
6 Peterson's R&R, Dkt. No. 26, is GRANTED. Martinez-Castro must file his objection
7 by March 1, 2024. His second Motion to Extend Time, Dkt. No. 28, is DENIED as
8 moot. It is so ORDERED.

9 The Clerk is directed to send uncertified copies of this Order to all counsel of
10 record and to any party appearing pro se at said party's last known address.

11 Dated this 13th day of February, 2024.

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Jamal N. Whitehead
14 United States District Judge
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